

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Application of)	
)	
CARBON LEHIGH INTERMEDIATE UNIT 21)	File No. BPLIF-19951019AI
)	
For Authorization to Construct New Instructional)	
Television Fixed Service Station on the B-Group)	
Channels at Allentown, PA.)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: April 16, 2003

Released: April 23, 2003

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. *Introduction.* In this *Memorandum Opinion and Order*, we address Carbon Lehigh Intermediate Unit 21's (Carbon) above-captioned long-form application (FCC Form 330) to operate a new Instructional Television Fixed Service (ITFS) station on Channels B1-B4 at Allentown, PA.¹ Additionally, we address Atlantic Microsystems, Inc.'s (AMI) petition to deny Carbon's application.² For the reasons stated below, we grant AMI's petition to deny and dismiss Carbon's application.

2. *Background.* Carbon filed the above-captioned application on October 19, 1995.³ On August 8, 1997, AMI filed a petition to deny Carbon's application.⁴ AMI contends that Carbon's proposed facilities will cause harmful interference to ITFS Stations WLX566 and WLX578, Waterford Works, New Jersey.⁵ AMI leases excess airtime capacity on those stations.⁶

3. *Discussion.* Based on our review of the record in this proceeding, we conclude that Carbon's application is defective and must be dismissed. AMI provides an engineering study

¹ Effective March 25, 2002, the Commission transferred regulatory functions for the Instructional Television Fixed Service and the Multipoint Distribution Service/Multichannel Multipoint Distribution Service from the Mass Media Bureau (MMB) to the Wireless Telecommunications Bureau (Bureau). Radio Services Are Transferred From Mass Media Bureau to Wireless Telecommunications Bureau, *Public Notice*, 17 FCC Rcd 5077 (2002). Accordingly, the Bureau's Public Safety and Private Wireless Division assumed all regulatory duties associated with these services effective March 25, 2002. *Id.*

² Petition to Deny filed by Atlantic Microsystems Inc. (filed Aug. 8, 1997) (Petition).

³ The application has not yet been accepted for filing.

⁴ According to our records, Carbon did not file a response or opposition to the Petition. Carbon filed numerous motions for extension of time to submit opposition to AMI's petition to deny. *See* Motions for Extension of Time filed by Carbon Lehigh Intermediate Unit 21 (August 21, 1997 to Jun. 15, 1998). *See also* Letter from Todd W. Marshall, Director of Licensee Relations, Eastern Region, WorldCom Broadband Solutions, Inc., to Secretary, Federal Communications Commission (filed Dec. 17, 2002).

⁵ The licensee of Station WLX566 is the New Jersey Public Broadcasting Service. The licensee of Station WLX578 is Mercer County Community College.

⁶ Petition at 1-2.

demonstrating that Carbon's proposed operation will cause some interference to the PSA boundary of ITFS Stations WLX566 and WLX578.⁷ In support of its contentions, AMI states that Carbon used an inaccurate Effective Isotropic Radiated Power in its application to determine co-channel interference.⁸

4. Section 21.902(b)(3) of the Commission's rules requires the applicant to engineer its system to provide at least 45 dB of co-channel interference protection within the PSA of all other authorized or previously proposed stations.⁹ An independent engineering study performed by our staff shows that Carbon's proposed station fails to provide at least 45 dB of co-channel interference protection within the PSA of Stations WLX566 and WLX578. Accordingly, we will direct the Licensing and Technical Analysis Branch to dismiss Carbon's application as defective pursuant to Section 21.20(b)(4) of the Commission's Rules.¹⁰

5. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 21.30 of the Commission's rules, 47 C.F.R. § 21.30, the Petition to Deny filed by the Atlantic Microsystems, Inc. on August 8, 1997 IS GRANTED.

6. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Sections 21.20(b)(4) and 21.902 of the Commission's Rules, 47 C.F.R. §§ 21.20, 21.902, that the Licensing and Technical Analysis Branch SHALL DISMISS the application filed on October 19, 1995 by Carbon Lehigh Intermediate Unit 21 (File No. BDLIF-19951019AI).

7. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

⁷ Petition, Engineering Statement of Andrew W. Swartz, Senior Engineering Analyst, CAI Wireless Systems, Inc.

⁸ *Id.*

⁹ 47 C.F.R. § 74.903(a)(1).

¹⁰ 47 C.F.R. § 21.20(b)(4).